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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/618,047 | 07/11/2003 | John D. Norton | P11443.00 | 4113 |
| 27581 | 7590 | 02/25/2005 | EXAMINER | |
| MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MS-LC340 MINNEAPOLIS, MN 55432-5604 | | | HA, NGUYEN T | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2831 | |

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,047

Applicant(s)

NORTON, JOHN D.

Examiner

Nguyen T Ha

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 13-15 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>0803</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claims 17-20 should be change to claims - -16-20 - -.

Election/Restrictions

2. Applicant's election with traverse of group I claims 1-12 and 16-20 in the reply filed on 01/17/2005 is acknowledged. The traversal is on the ground(s) that the searches for group I and II would be co-extensive. This is not found persuasive because the method claims 13-15 would be classified in a different class than claims 1-12 and 16-20

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 contains the trademark/trade name NUCLEPORE®, CYCLOPORE™, ISOPORE™, PORETICS® and SPI-Pore. Where a trade mark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirement of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the good associated with the trademark or trade name. The examiner assume that the applicant referring to some kinds of the polymers material.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 5-7 and 9-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Keshishian (US 6,740,447).

Regarding claim 1, Keshishian discloses a capacitor cell (figures 1a-1f and 2) comprising:

- an anode material (4);

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- a cathode material (8) spaced from an operatively associated with the anode material;
- an electrolyte (28) operatively associated with the anode material and the cathode material; and
- one or more track-etched separator (7) materials disposed between the anode material and the cathode material.

Regarding claim 5, Keshishian discloses the cathode material, and the track-etched separator material are configured as one or more strips adhered together as a laminate (figure 1c).

Regarding claim 6, Keshishian discloses the laminate is arranged in a coiled configuration (column 4, lines 62-65).

Regarding claim 7, Keshishian discloses the laminate is arranged in a flat-coiled configuration (figure 1b).

Regarding claim 9, Keshishian discloses the laminate is arranged in a stacked configuration (figure 1b).

Regarding claim 10, Keshishian discloses the anode material, the cathode material, and the track-etched separator material are each configured as one or more layers (figure 1c).

Regarding claim 11, Keshishian discloses one or more layers are configured as a stack of layers (figure 1c).

Regarding claim 12, Keshishian discloses the stack of layers comprises separator layers positioned in between alternating anode and cathode layers (figure 1c).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keshishian (US 6,740,447) in view of Matsumoto et al. (US 5,850,331).

Regarding claims 2-3, Keshishian discloses all the claimed limitation discussed above with respect to claim 1, except for the track-etched separator materials comprise track-etched polycarbonate materials.

Matsumoto et al. teach a separator (2) is made of polycarbonate (column 6, lines 34-38).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the Matsumoto et al. separator in Keshishian, since such a modification would provide a capacitor to have an excellent chemical and thermal resistance at a high temperature.

Regarding claim 4, as best understood, the teaching of Keshishian in view of Matsumoto et al. includes wherein the track-etched materials comprising polymer (column 6, lines 34-41 as taught by Matsumoto et al.)

Regarding claim 8, the teaching of Keshishian in view of Matsumoto includes all the claimed limitations. Matsumoto et al. further disclose the laminate is arranged in a cylindrical coiled configuration (figure 5).

Allowable Subject Matter

8. Claims 16-20 are allowed.

The following is an examiner's statement of reasons for allowance:

With respect to claims 16, the prior art alone or in combination does not teach the limitation of a capacitor cell comprising: a pressed, sintered and formed, powdered metal anode member having a pair of substantially flat, major opposing sides, and a portion of track-etched material disposed on at least one of the pair of substantially flat, major opposing sides of the anode member, said portion of track-etched material having a surface area approximately the same as a surface area of the anode member.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen T. Ha whose telephone number is 571-272-1974. The examiner can normally be reached on Monday-Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext. 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen T. Ha
February 17, 2005

 2/22/05
DEAN A. REICHARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800